

UNITED STATES DISTRICT COURT

Southern District of New York

HUGH JOHN TULLY and PENELOPE CAROL TULLY,
on Behalf of Themselves and All Others
Similarly Situated,

V.

SUMMONS IN A CIVIL ACTION

THE CHARLES SCHWAB CORPORATION,
SCHWAB INVESTMENTS, CHARLES
SCHWAB & CO. INC., CHARLES
SCHWAB INVESTMENT MANAGEMENT,
INC., CHARLES R. SCHWAB, EVELYN
DILSAVER, RANDALL W. MERK, and
GEORGE PEREIRA

08 CV 3652
CASE NUMBER

JUDGE JONES

TO: (Name and address of Defendant)

THE CHARLES SCHWAB CORPORATION, SCHWAB INVESTMENTS, CHARLES SCHWAB & CO.
INC., CHARLES SCHWAB INVESTMENT MANAGEMENT, INC., CHARLES R. SCHWAB,
EVELYN DILSAVER, RANDALL W. MERK, and GEORGE PEREIRA
101 Montgomery Street,
San Francisco, CA 94104

YOU ARE HEREBY SUMMONED and required to serve on PLAINTIFF'S ATTORNEY (name and address)

Daniel W. Krasner, Robert B. Weintraub
WOLF HALDENSTEIN ADLER FREEMAN & HERZ LLP
270 Madison Avenue
New York, New York 10016

an answer to the complaint which is served on you with this summons, within thirty (30) days after service of this summons on you, exclusive of the day of service. If you fail to do so, judgment by default will be taken against you for the relief demanded in the complaint. Any answer that you serve on the parties to this action must be filed with the Clerk of this Court within a reasonable period of time after service.

J. MICHAEL McMAHON

APR 16 2008

CLERK

DATE

(By) DEPUTY CLERK

RETURN OF SERVICE

Service of the Summons and complaint was made by me ⁽¹⁾	DATE 4/21/08
NAME OF SERVER (PRINT) Robert B. Weintraub	TITLE Of Counsel, Wolf Halderstein for plaintiffs

Check one box below to indicate appropriate method of service

☒ Served personally upon the defendant. Place where served:

Pursuant to written agreement with Ropes + Gray,

☐ Left copies thereof at the defendant's dwelling house or usual place of abode with a person of suitable age and discretion then residing therein.

Name of person with whom the summons and complaint were left:

☐ Returned unexecuted:

☐ Other (specify):

STATEMENT OF SERVICE FEES

TRAVEL	SERVICES	TOTAL —
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DECLARATION OF SERVER

I declare under penalty of perjury under the laws of the United States of America that the foregoing information contained in the Return of Service and Statement of Service Fees is true and correct.

Executed on

4/28/08

Date

Signature of Server

Robert B. Weintraub

Address of Server

**Wolf Halderstein, for plaintiffs
270 Madison Ave NYC 10016**

Address of Server

by Robert Skinner, Esq., counsel for defendant Schwab Investments, only, ("Schwab Investments"), service was effected by email and constituted good service as of April 21, 2008. See attached email from Schwab Investments' counsel.

Robert B. Weintraub 4/28/08 KOP. 11 JIM.1

(1) As to who may serve a summons see Rule 4 of the Federal Rules of Civil Procedure.

Weintraub, Bob

From: Skinner, Robert [Robert.Skinner@ropesgray.com]
Sent: Monday, April 21, 2008 4:02 PM
To: Weintraub, Bob
Subject: RE: Schwab YieldPlus Fund, SDNY action, service papers

We will accept service on behalf of Schwab Investments.

I look forward to working with you on agreeing to a mutually agreeable date for responding to the complaint.

I do not know what arrangements have been made in any of the other cases regarding a response date, and I have not had time to find out since receiving your request at 10:00 p.m. last night.

Regards,

Robert A. Skinner
ROPES & GRAY LLP
T 617-951-7560 | F 617-235-0434
One International Place
Boston, MA 02110-2624
Robert.Skinner@ropesgray.com
www.ropesgray.com

From: Weintraub, Bob [mailto:weintraub@whafh.com]
Sent: Monday, April 21, 2008 3:26 PM
To: Skinner, Robert
Subject: RE: Schwab YieldPlus Fund, SDNY action, service papers

You are incorrect in your email.

MoFo accepted service unqualifiedly, and then asked in the same email that we reach agreement on a response date. I just received that request yesterday by email (contrary to MoFo's offhand statement in yesterday's email that we had briefly discussed the issue on Friday -- which was not the case). I have not yet responded to the MoFo request. The MoFo email did not state what has been agreed to in the other similar litigations which have been filed, and neither do you. I don't even know if you accepted service in the other litigations, let alone agreed on a response date. Since I don't know what has occurred in the other actions, I want to take this step by step. Given the fact that actions have been commenced in various Districts, I am sure that WHAFH will take a position on a response date which you will find reasonable, but that does not have to be agreed to in the context of service.

Since you have not agreed to accept service unqualifiedly, as did MoFo, we will serve Schwab Investments today in San Francisco. As soon as I send you this email, I will call you. But, if I can't reach you, we will go ahead and serve. I am simply trying to keep the time frames for the various groupings of defendants close together.

Thank you.

From: Skinner, Robert [mailto:Robert.Skinner@ropesgray.com]
Sent: Monday, April 21, 2008 2:23 PM
To: Weintraub, Bob
Cc: Bodner, Randall W.
Subject: RE: Schwab YieldPlus Fund, SDNY action, service papers

Mr. Weintraub,

4/28/2008

We are authorized to accept and/or waive service on behalf of Schwab Investments, and will agree to do so on the condition that Schwab Investments will have 60 days to respond to the complaint as provided under Fed. R. Civ. P. 4(d). I understand that this is consistent with the arrangement between plaintiffs and the other defendants. If this is incorrect and/or if plaintiffs are unwilling to provide Schwab Investments with 60 days to respond to the complaint, please let me know immediately. Thank you.

Regards,

Circular 230 Disclosure (R&G): To ensure compliance with Treasury Department regulations, we inform you that any U.S. tax advice contained in this communication (including any attachments) was not intended or written to be used, and cannot be used, for the purpose of avoiding U.S. tax-related penalties or promoting, marketing or recommending to another party any tax-related matters addressed herein.

This message (including attachments) is privileged and confidential. If you are not the intended recipient, please delete it without further distribution and reply to the sender that you have received the message in error.

Robert A. Skinner

ROPES & GRAY LLP

T 617-951-7560 | F 617-235-0434

One International Place

Boston, MA 02110-2624

Robert.Skinner@ropesgray.com

www.ropesgray.com

From: Weintraub, Bob [mailto:weintraub@whafh.com]
Sent: Sunday, April 20, 2008 10:10 PM
To: Bodner, Randall W.; Skinner, Robert
Subject: Schwab YieldPlus Fund, SDNY action, service papers
Importance: High

We represent the plaintiffs in another Schwab YieldPlus Fund action, filed last week in the SDNY. Stuart Plunkett of MoFo told me you represent Schwab Investments. (He represents all other defendants in our action.) After Fed Exing all papers to our process server in San Francisco, which arrived at the process server last Friday morning SF time, I emailed the papers to Stuart last Friday. Stuart agreed to accept service by email on behalf of his clients effective as of last Friday.

I attach hereto a set of the same papers for you. Enclosed herewith are: the complaint, plaintiffs' certification, summons, civil cover sheet, Judge Jones' rules, Judge Dolinger's rules and electronic case filing information which is attached to Judge Jones' rules. Since the papers have been with the process server since last Friday morning San Francisco time, and the other defendants were served as of Friday, please email me no later than 3 p.m. New York time Monday a short, unambiguous email that the documents enclosed herewith constitute completed service as if your client has been served effective Monday April 21, 2008. Thank you. Otherwise, I will tell the process server to effect service. (If you accept service by email, as a separate courtesy, I will also have the process server deliver a hard copy set of the papers to

4/28/2008

your San Francisco office.)

Thank you.

Robert B. Weintraub
Wolf Haldenstein Adler Freeman & Herz LLP
270 Madison Avenue
New York, New York 10016
Tel: 212 545-4689 (direct)
212 545-4600 (main)
Fax: 212 545-4653